

REMARK

Applicants respectfully request the Examiner's reconsideration of the present application. Claims 1, 3-7, 9-12 and 14-17 have been amended. Claims 2, 8, and 13 have been cancelled. Entry of the amendments is respectfully requested. Accordingly, claims 1, 3-7, 9-12, and 14-17 are presented for examination.

Specification

Page 2, lines 1-2 have been amended.

Paragraph [0001] has been amended.

Claims Rejected Under 35 U.S.C. §102(b)

Claims 1, 5-7, and 11 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,682,273 issued to Hetzler ("*Hetzler*"). To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim.

With respect to independent claims 1 and 7, claims 1 and 7 as amended recite "a system detecting an occurrence of a predetermined event, wherein the predetermined event is a cache of the hard disk reaching a predetermined level of dirty data, the predetermined level is to be reached before the cache of the hard disk is full of dirty data." *Hetzler* does not teach or suggest this limitation.

Rather, *Hetzler* discloses a disk drive for portable computer with power management where when a user accesses the disk drive, the spindle motor is spun up and the heads are moved across the disk to read or write data on the appropriate data track (*Hetzler*, Abstract, col. 1, lines 27-30). The frequency of read or write access is determined while the spindle motor is rotating at its operating speed (col. 22, lines 18-30).

The Examiner recognizes that *Hetzler* does not teach the predetermined event is a cache of the hard disk reaching a predetermined level of dirty data, the predetermined level is to be reached before the cache of the hard disk is full of dirty data. The amendments include limitations not rejected by the Examiner under 35 U.S.C. §102(b), therefore, the rejections of claims 1 and 7 are deemed moot. Accordingly, reconsideration and withdrawal of the rejections of claims 1 and 7 under 35 U.S.C. §102(b) are respectfully requested.

Dependent claims 5-6 and 11 depend from claims 1 and 7 respectively, and thus incorporate the limitations of these claims. Accordingly, reconsideration and withdrawal of the rejections of claims 5-6 and 11 under 35 U.S.C. §102(b) are respectfully requested.

Claims Rejected Under 35 U.S.C. §103(a)

Claims 2-3, 8-9, and 12-14, 16, and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Hetzler* in view of U.S. Patent No. 5,636,355 issued to Ramakrishnan et al. (“*Ramakrishnan*”). To establish a *prima facie* case of obviousness, there must first be some suggestion or motivation to modify a reference or to combine references, and second be a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. Third, the prior art reference or references when combined, must teach or suggest all the claim limitations. M.P.E.P § 706.02(j) from *In Re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Dependent claims 2-3, and 8-9 depend from claims 1 and 7 respectively. For at least the reasons stated above, *Hetzler* does not disclose the limitations of these claims. *Ramakrishnan* does not cure this deficiency.

Applicants respectfully submit that *Ramakrishnan* does not disclose “a system detecting an occurrence of a predetermined event, wherein the predetermined event is a cache of the hard disk reaching a predetermined level of dirty data, the predetermined level is to be reached before the cache of the hard disk is full of dirty data; and in response to detecting the event, spinning up a hard disk of the system **prior to a request to exchange data** with the hard disk.” as recited in claims 1 and 7.

Ramakrishnan discloses that its invention comprises the steps of processing each **request to write a block of data** to the disk by storing the block in the write cache memory, then repeatedly checking to determine the proportion of blocks in the write cache memory that have not been written to the disk. (col. 2, lines 58-62). Because *Ramakrishnan* requires an initial write request before the determination to check the proportion of blocks in the write cache memory that have not been written to the disk, *Ramakrishnan* operates fundamentally different from *Hetzler*, where *Hetzler* discloses a subsequent write request after the frequency of the access is determined. Because *Ramakrishnan* and *Hetzler* operate differently, there will be no reasonable expectation of success with the combination of the two references. Because the combination of

the two references will not be operable, the combination does not teach or suggest determining a dirty cache level **prior to a request to exchange data**. Because *Ramakrishnan* fails to disclose this limitation, the combination of *Hetzler* and *Ramakrishnan* does not teach or suggest the limitations of claims 1 and 7.

With respect to claim 12, claim 12 recites similar limitations as claims 1 and 7. For at least the reasons stated with respect to claims 1 and 7, the combination of *Hetzler* and *Ramakrishnan* does not teach or suggest the limitations of claim 12.

Dependent claims 13, 14, 16, and 17 claim 12. For at least the reasons stated above, *Hetzler* in view of *Ramakrishnan* does not teach or suggest the limitations of these claims. Accordingly, reconsideration and withdrawal of the rejections of claims 2-3, 8-9, and 12-14, 16, and 17 are respectfully requested.



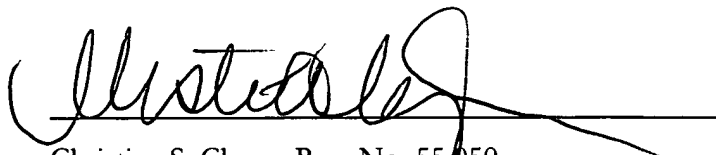
CONCLUSION

In view of the forgoing, it is believed that all claims now pending are in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 5/17/06


Christine S. Chang, Reg. No. 55,050

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
Telephone (310) 207-3800
Facsimile (310) 820-5988

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I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


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5/17/06
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